O/B. Rationing/52

1952.

File No.

Legal Deptt

G **BRANCH**

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Subject:— Opinion on the Bombay Rationing Order, 1943.

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O/B. Rationing/52

File No. 15/52

Gen. 194 e.

C O N T E N T S.

Legal Department File No. C.B. Re (Rationing)/19 B.

Sr. No.	R.T./C.No.	Subject.	Paras.
		Opinions on the Bombay Rationing Order, 1943.	
1.	G-690 16-8-52.	Question whether the suggestion of the Rationing Controller of Rationing to cancel or suspend an authorisation under clause 3(2) of the Bombay Rationing Order 1943, for breach of any order other than the Rationing order or Regulation made thereunder and then to defend the case, if any, arising out of such cancellation or suspension as a test case is legally in order.	1-4.
2.	G-511 7-10-52.	Questions (1) whether if the card of the Head of the family is used along with the absentee card for drawal is the court found to presume that the Head of Family has drawn rations unlawfully on the absentee's Card & then convict him (2) If not then an administrative order would it become necessary to amend the BRO and make the Head of family responsible for the drawal of absentees rations (a) in case rations are drawn on both the the cards together or (b) even otherwise.	5-14.
3.	G-540 16-10-52.	Question whether it would be necessary to empower under clause 10(1) of the B.R.O. the Asstt Rationing officers and Land Rationing officers in Ahmedabad who issue Ration Coupons under the Ahmedabad Rationing Regulation.	15-18.

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Office of the R.L.A.

For the reasons given in R.L.A's opinions No. G-565, dated the 14th November 1951 in reply to question No. 4 and No. G-425, dated the 14th September 1951, the suggestion of the Controller of Rationing to cancel or suspend an authorization under clause 3(2) of the Bombay Rationing Order, 1943 for breach of any order other than the Rationing Order or Regulation made thereunder and then to defend the case, if any arising out of such cancellation or suspension as a test case is not legally in order. However, the view taken by the Director of Civil Supplies that for cases Nos. (1) and (2) mentioned in his note on page 7 ante, the authorization can be cancelled or suspended under clause 3(2) of the Bombay Rationing Order and for cases mentioned at Nos. (3) & (4), action can be taken against the Authorised Retail Distributor by refusing to renew the authorization after expiry of the quarter, is correct.

sd/-

Remembrancer of Legal Affairs.

N.V. to C. of R., No. G-390, dated the 16th August 1952.

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Office of the F.I.A.

Clause 13 f the Bombay Rationing Order, 1945 provides that a ration ducument shall be available for lawful use only when it is used by the person in respect of whom it is issued or on his behalf by any other person and when such person is living and is in the area within which it is available for use. Again clause 6 of the said Order provides that rationed articles shall be obtained by means of a ration document a vilable for lawful use and lawfully used. From these provisions it is clear that rationed articles can be drawn against a rat'on card by the holder of the ration card or by any other person on his behalf. As any other person can draw the ration the Court would not be bound to draw the presumption that the ration has been drawn by the head of the family.

The next question, therefore, is whether it would be possible to amend the Bombay Rationing Order or even the Essential Supplies (Temporary Powers) Act, 1946, to achieve the object in view. In the absence of any provision in the Act enabling Government to make an order for imposing vicarious liability on the head of the family for drawal of rations on the ration card of an absentee it would not be be feasible to amend the Bombay Rationing Order. It is also doubtful if the Government of India would agree to amend the Essential Supplies (Temporary Powers) Act for the purpose. The Civil Supplies Department may however consider whether it would be practicable to require the authorised Retail Distributor to obtain the signature of the person who draws the ration in order to produce necessary evidence in the Court in case of drawal on absentee's card.

sd/-

Remembrancer of Legal Affairs.

U.P. to C. Of P., No. G-511, dated the 7th October 1952.

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Office of the P...A.

The view taken by the Controller of Rationing's office that it would not be necessary to empower under clause 10 (1) of the Bombay Rationing Order, 1943, the Assistant Rationing officers and Ward Rationing Officers in Ahmedabad who issue Ration documents under the Ahmedabad Rationing Regulation, is correct. (vide P.L.A's opinion No. 8707, dt. 13-12-46). Under clause 10(1) of the State Government can issue or cause to be issued a ration document for the purposes of rationing of any article and under clause 12 the State Government is empowered to issue regulations providing for supplying ration articles subject to certain conditions in certain localities and in particular providing for the issuing of ration documents of particular kind and in particular manner. The State Government as under this clause is used the Ahmedabad Rationing Regulation wherein provision is made for issuing Ration cards by the Ward Rationing officers or Assistant Rationing Officers. Their authority issue Ration cards is statutory and relatable to the Bombay Rationing Order, 1943 and therefore it is not necessary to empower them again under clause 10(1) by issuing a notification under that clause.

Sd/-

Remembrancer of Legal Affairs.

W.P. to C. of R., No. C-560, dated the 16th October 1952.

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